

REMARKS

The Applicants do not believe that examination of the response contained herein will result in the introduction of new matter into the present application for invention. Therefore, the Applicants, respectfully, request that this response be entered in and that the claims to the present application, kindly, be reconsidered.

The Office Action dated August 9, 2006 has been received and considered by the applicants. Claims 1-26 are pending in the present application for invention. Claims 1-26 are rejected by the August 9, 2006 Office Action.

The Office Action takes Office notice that it is notoriously well known in the art to vary the weighting of preferences based upon calendar time, such as seasons of the year, for the benefit of allowing date specific content to be more heavily weighted for programming seasonal activities. The Applicants, respectfully, disagree that it is well known to vary the weighting of preferences based upon calendar time, such as seasons of the year, for the benefit of allowing date specific content to be more heavily weighted for programming seasonal activities. The Applicants, respectfully, request that the Examiner produce prior art references that can support the assertion of Official Notice that varying the weighting of preferences based upon calendar time is well known in the art.

The Office Action rejects Claims 1-26 under the provisions of 35 U.S.C. 103(a) as being obvious over WO/99/01984 A1 by Maissel et al. (hereinafter Maissel et al.) in view of US Patent No. 5,031,228 issued in the name of Lu et al. (hereinafter referred to as Lu et al.). The MPEP at §2143 states the basic requirements of a *prima facie* case of obviousness.

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

Serial No. 09/882,158

9

The Examiner states that the combination made by the rejection discloses or suggests the subject matter defined by the rejected claims. The applicants, respectfully, disagree. Regarding Claim 1, the examiner asserts that Maissel et al. teach at page, 15, line 29-page 16, line 8; and page 18, lines 5-30 a data store having a plurality of storage locations for a corresponding plurality of users dedicated to store individual user preference data. The Applicants, respectfully, point out that page 15, line 29-page 16, line 8; and page 18, lines 5-30 of Maissel et al. teach that the television viewing information may be associated with one or more viewers. Maissel et al. do not disclose or suggest a data store with a plurality of storage locations for a corresponding plurality of users wherein individual storage locations are dedicated to store user preference data for an individual user. Therefore, all the elements of Claim 1 are not found and a *prima facie* case of obviousness has not been made.

The Examiner asserts that Maissel et al. teach at page, 18, lines 5-17 the creation of a composite user profile useful for generating entertainment options based on the profiles of each of the plurality of users currently within the viewing range. The Applicants, respectfully, point out that page 18, lines 5-17 of Maissel et al. teach that the television viewing information may be associated with one or more viewers. Maissel et al. do not disclose or suggest a profile being formed for each of the users. Page 24, lines 18-24 of Maissel et al. teach that one or more user profiles can be used to customize programming. The Applicant, respectfully, asserts that there is no disclosure of suggestion within the cited references for the composite user profile to be based on those viewers currently within the viewing area. Therefore, all the elements of Claim 1 are not found and a *prima facie* case of obviousness has not been made.

Regarding Claim 6, the Examiner asserts that Maissel et al. teach at page, 15, line 29-page 16, line 8; and page 18, lines 5-30 a data store having a plurality of storage locations for a corresponding plurality of users dedicated to store individual user preference data. The Applicant, respectfully, points out that page 15, line 29-page 16, line 8; and page 18, lines 5-30 of Maissel et al. teach that the television viewing information may be associated with one or more viewers and makes no disclosure of suggestion of a data store that has a plurality of storage locations for a corresponding

plurality of users wherein individual storage locations are dedicated to store user preference data for an individual user. Therefore, all the elements of Claim 6 are not found and a *prima facie* case of obviousness has not been made.

The Examiner asserts that Maissel et al. teach at page, 18, lines 5-17 the creation of a composite user profile useful for generating entertainment options based on the profiles of each of the plurality of users currently within the viewing range. The Applicant, respectfully, points out that page 18, lines 5-17 of Maissel et al. teach that the television viewing information may be associated with one or more viewers; however, there is no disclosure of suggestion for a profile being formed for each of the users. Page 24, lines 18-24 of Maissel et al. teach that one or more user profiles can be used to customize programming; however, there is no disclosure or suggestion within the cited references for the composite user profile to be based on those viewers currently within the viewing area. Therefore, all the elements of Claim 6 are not found and a *prima facie* case of obviousness has not been made.

Regarding Claims 7 and 25, the Examiner asserts that Maissel et al. teach a computer programming program at page, 15, line 29-page 16, line 8 and for comparing the a user's identity against a first predetermined portion of user data from the data store on page 18, lines 5-17. The Applicant, respectfully, points out that page 18, lines 5-17 of Maissel et al. teach that the television viewing information may be associated with one or more viewers; however, there is no disclosure or suggestion for each identified user comparing the user's identity against a first predetermined portion of user data from the data store on page 18, lines 5-17. Therefore, all the elements of Claims 7 and 25 are not found and a *prima facie* case of obviousness has not been made.

The Examiner asserts that Maissel et al. teach at page, 24, lines 7-17 the retrieving of a second predetermined portion of use data from the data store for each user profile with a user profile that is then used to create a composite profile. The Applicant, respectfully, points out that Maissel et al. at page, 24, lines 7-17 teach viewer profile preference apparatus 190 and program schedule customization apparatus 200. The program schedule customization apparatus 200 is operative to customize the program schedule in accordance with one or more viewer preference profiles. There is no disclosure or suggestion for retrieving of a second predetermined portion of use data from

the data store for each user profile with a user profile that is then used to create a composite profile within Maissel et al. Therefore, all the elements of Claims 7 and 25 are not found and a *prima facie* case of obviousness has not been made

The Examiner asserts that Maissel et al. teach at page, 18, lines 5-17 the creation of a composite user profile useful for generating entertainment options based on the profiles of each of the plurality of users currently within the viewing range. The Applicant, respectfully, points out that page 18, lines 5-17 of Maissel et al. teach that the television viewing information may be associated with one or more viewers; however, there is no disclosure or suggestion for a profile being formed for each of the users. Page 24, lines 18-24 of Maissel et al. teach that one or more user profiles can be used to customize programming; however, there is no disclosure of suggestion within the cited references for the composite user profile to be based on those viewers currently within the viewing area. Therefore, all the elements of Claims 7 and 25 are not found and a *prima facie* case of obviousness has not been made.

Regarding Claim 24, the Examiner asserts that Maissel et al. teach an entertainment system at page, 15, line 29-page 16, line 8 and for determining which of the detected users have preference data within a data store on page 18, lines 5-17. The Applicant, respectfully, points out that page 18, lines 5-17 of Maissel et al. teach that the television viewing information may be associated with one or more viewers; however, there is no disclosure or suggestion for determining which of the detected users have preference data within a data store on page 18, lines 5-17. Therefore, all the elements of Claim 24 are not found and a *prima facie* case of obviousness has not been made.

The Examiner asserts that Maissel et al. at page, 24, lines 7-17 teach the retrieving from the data store for each user profile with a user profile that is then used to create a composite profile. The Applicants, respectfully, point out that Maissel et al. at page, 24, lines 7-17 teach viewer profile preference apparatus 190 and program schedule customization apparatus 200. The program schedule customization apparatus 200 is operative to customize the program schedule in accordance with one or more viewer preference profiles. There is no disclosure or suggestion for retrieving of a second predetermined portion of use data from the data store for each user profile with a user profile that is then used to create a composite profile within Maissel et al. Therefore, all

the elements of Claim 24 are not found and a *prima facie* case of obviousness has not been made

The Examiner asserts that Maissel et al. teach at page, 18, lines 5-17 and page 20, lines 19-27 the creation of a composite user profile useful for generating entertainment options based on the profiles of each of the plurality of users currently within the viewing range. The Applicant, respectfully, points out that page 18, lines 5-17 and page 20, lines 19-27 of Maissel et al. teach that the television viewing information may be associated with one or more viewers; however, there is no disclosure or suggestion for a profile being formed for each of the users. Maissel et al. at page 24, lines 18-24 of teach that one or more user profiles can be used to customize programming; however, there is no disclosure or suggestion within the cited references for the composite user profile to be based on those viewers currently within the viewing area. Therefore, all the elements of Claim 24 are not found and a *prima facie* case of obviousness has not been made.

In an attempt to move this case towards allowance, Claim 24 has been amended to define the creating of a composite user profile using the retrieved user preference data by applying weighting techniques to retrieved user preference data by applying different weighting levels relative to amounts of greatest appeal for each of the retrieved user preference data. This subject matter is discussed in the specification and not disclosed or suggested by the prior art references.

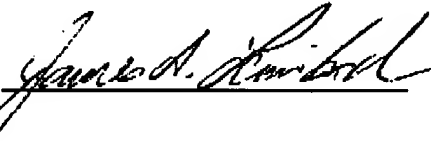
The remaining claims depend from the above discussed claims and are believed to be allowable for that reason.

Regarding Claim 21, this claim has been amended to define that each user profile may contain a weighting factor by applying weighting techniques to each user profile by applying weighting levels relative to amounts of greatest appeal for each of the user profiles independently from other users. This subject matter is discussed in the specification and not disclosed or suggested by the prior art references.

In view of the foregoing amendment and remarks, the Applicant believes that the present application is in condition for allowance, with such allowance being, respectfully, requested.

The Commissioner is hereby authorized to charge any fees associated with this response to Account No. 50-3745, including extension fees but excluding issue fees, and to credit any overpayments to the same account.

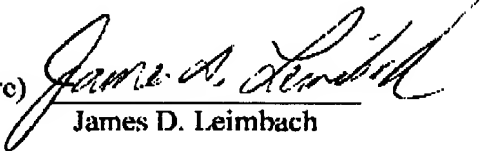
Respectfully submitted,

By 

James D. Leimbach
Patent Attorney Reg. No. 34,374
Tel. No (585) 820-6729

CERTIFICATE OF TRANSMISSION
I hereby certify that this correspondence
is being transmitted on this date via
facsimile transmission to (571) 273-8300 AND addressed to:
Mail Stop: Amendment
COMMISSIONER OF PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Date of Transmission: February 16, 2007

(Signature) 
By: James D. Leimbach